

APPEAL NO. 020275
FILED MARCH 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 15, 2002. In regard to the sole issue before her, the hearing officer determined that the appellant (claimant herein) did not have disability from February 27, 2001, through the date of the CCH as a result of his compensable injury of _____. The claimant appeals, contending that this determination was contrary to the great weight and preponderance of the evidence. The respondent (carrier herein) responds that the hearing officer's decision was sufficiently supported by the evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

Disability is a question of fact to be determined by the hearing officer. Texas Workers' Compensation Commission Appeal No. 93560, decided August 19, 1993. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). Nothing in our review of the record indicates that the challenged determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). This is so even though another fact finder might have drawn other inferences and reached other conclusions. Salazar v. Hill, 551 S.W.2d 518 (Tex. Civ. App.-Corpus Christi 1977, writ ref'd n.r.e.).

Also, we note that the hearing officer did not apply an incorrect standard of review in arriving at her decision, as the claimant appears to implicitly argue on appeal. The hearing officer recognized in her decision that a finding of disability may be based upon the testimony of the claimant alone, but stated that she found the evidence unpersuasive in establishing disability. In light of the fact that the claimant bore the burden of proof and the hearing officer was free to disbelieve the claimant's evidence, we do not find the hearing officer applied an incorrect legal standard.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
T.P.C.I.G.A.
9120 BURNETT ROAD
AUSTIN, TEXAS 78758.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Edward Vilano
Appeals Judge